

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Semple, et al.

Application No.: 10/086,477

Filed: 3/1/2002

Title: Compositions for Stimulating Cytokine
Secretion and Inducing an Immune Response

Attorney Docket No.: INEX.P-006-2

Customer No.: 021121

Group Art Unit: 1632

Examiner: D. Nguyen

Confirmation No: 3225

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SEP 25 2003

Commissioner for Patents

PO Box 1450

Alexandria, VA 22313-1450

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RESPONSE TO RESTRICTION REQUIREMENT

Dear Sir:

Responsive to the Restriction Requirement mailed August 27, 2003 for the above-captioned application, Applicants hereby elect the claims of Group I, claims 3 and 14, the lipid species DODMA, and polypeptides as the antigenic species, **with traverse**. Reconsideration and withdrawal of the restriction requirement is respectfully urged.

The Examiner has identified three inventions which he says are distinct. In support of this restriction, he has not shown that the inventions are classified differently. Indeed, the stated class and subclass are the same. Furthermore, he has not explained how there is a burden presented in searching the inventions since similar claims are present in the parent case, which is

I hereby certify that this paper and any attachments named herein are transmitted to the United States Patent and Trademark Office, Fax number: ~~703-305-7401~~ on September 24, 2003.

703 872 9306

Marina T. Larson
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September 24, 2003
Date of Signature

Appln No.: 10/086,477
Amendment Dated: September 24, 2003
Reply to Office Action of August 27, 2003

being examined by the same Examiner and where no restriction requirement was made. While this does not forbid imposition of a restriction requirement in this case, some additional explanation as to why the requirement is made in this case is appropriate.

Applicants further point out that the claims of Group II, that is claims 2 and 13, that recite a nucleic acid polymer that is a "non-sequence specific immunostimulatory polymer" are generic with respect to the claims of Group I. CpG motifs are one form of non-sequence specific immunostimulatory sequences, since the immune response is general and not targeted to a specific antigen based on the sequence of the nucleic acid. (See Page 60, lines 5-10) Thus, the separation of Groups I and II is improper, and the following claims are generic and should be considered along with claims 3 and 14 even if the restriction is not withdrawn: Claims 1, 2, 5-13, and 16-19.

Respectfully Submitted,



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